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ER 4199X-86

Diplomatic Security

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SUSPENSE					

Date

Remarks

To 9: Please handle directly and advise
ES name of our representative.

Executive Secretary
22 Sept 1986

Date

3637 (10-81)



United States Department of State

Washington, D.C. 20520

September 20, 1986

CONFIDENTIAL

Interagency Group No. 20

Executive Registry

86-4199X

TO : OVP - Mr. Donald P. Gregg
 NSC - Mr. Rodney McDaniel
 ACDA - Mr. William Staples
 = CIA -
 Commerce - Mrs. Helen Robbins
 Defense - COL James Lemon
 Energy - Mr. William V. Vitale
 JCS - MAJ James Boatright
 NRC - Mr. Samuel Chilk
 OMB - Mr. L. Wayne Army
 OSTP - Mr. Richard Johnson

25X1

SUBJECT: IG on Physical Protection Studies Required by the
 Omnibus Diplomatic Security and Terrorism Act

Sections 601 and 604 of the subject legislation direct the Executive branch to conduct physical protection studies. Section 601 directs the President, enlisting the participation of all relevant departments and agencies of the Government, to review the IAEA recommendations on Physical Protection of Nuclear Material. The findings of the President under Section 601 are to be reported to the Director General of the IAEA. Section 604 requires the Secretaries of State, Energy and Defense, the Director of ACDA, and the NRC to review the adequacy of physical security standards currently applicable to the shipment and storage of certain categories of nuclear material outside the United States that is subject to U.S. prior consent rights. Section 604 directs each agency to submit its report to the Congress within six months of enactment of the law, i.e., six months from August 27, 1986 (by February 27th, 1987).

Ambassador John D. Negroponte, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, will chair a meeting of the Interagency Group on Nuclear Non-Proliferation on Tuesday, September 30, 1986 at 10:30 a.m. in the OES Conference Room, Room 7835, Department of State, to discuss a coordinated approach to the required reports.

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- 2 -

Agencies planning to participate are requested to provide the names of their representatives to Mr. Jeff Lutz of OES/NEP prior to the meeting. Mr. Lutz can be reached at 647-4812.


Nicholas Platé
Executive Secretary

Attachments:

1. Provisional IG Agenda
2. Sections 601 and 604 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986
3. Conference Report on Title VI - International Nuclear Terrorism

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IG Agenda

- I. - Sections 601 & 604 Reports**
- II. - Procedures for Coordination**
- III. - Schedule for Activities**
- IV. - Physical Protection Standards**
- V. - Baseline Threats**

—Ordered to be printed

Mr. _____, from the committee of conference,
submitted the following

[To accompany H. R. 4151]

having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:—

That the amendment proposed to be inserted by the Senate amendment

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

~~XXXXXXXXXXXXX~~

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1 Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)),
2 has repeatedly provided support for acts of international
3 terrorism.

4 (b) WAIVER.--The President may waive the prohibition
5 contained in subsection (a) in the case of a particular
6 export if the President determines that the export is
7 important to the national interests of the United States and
8 submits to the Congress a report justifying that
9 determination and describing the proposed export. Any such
10 waiver shall expire at the end of 90 days after it is granted
11 unless the Congress enacts a law extending the waiver."

12 (b) OTHER GOODS AND TECHNOLOGY.--Section 6(j)(1) of the
13 Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1))
14 is amended by striking out "\$7,000,000" and inserting in
15 lieu thereof "\$1,000,000".

16 TITLE VI--INTERNATIONAL NUCLEAR TERRORISM

17 SEC. 601. ACTIONS TO COMBAT INTERNATIONAL NUCLEAR TERRORISM.

18 (a) ACTIONS TO BE TAKEN BY THE PRESIDENT.--The Congress
19 hereby directs the President--

20 (1) to seek universal adherence to the Convention on
21 the Physical Protection of Nuclear Material;

22 (2) to--

23 (A) conduct a review, enlisting the participation
24 of all relevant departments and agencies of the
25 Government, to determine whether the recommendations

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1 on Physical Protection of Nuclear Material published
2 by the International Atomic Energy Agency are
3 adequate to deter theft, sabotage, and the use of
4 nuclear facilities and materials in acts of
5 international terrorism, and

6 (B) transmit the results of this review to the
7 Director-General of the International Atomic Energy
8 Agency;

9 (3) to take, in concert with United States allies and
10 other countries, such steps as may be necessary--

11 (A) to keep to a minimum the amount of
12 weapons-grade nuclear material in international
13 transit, and

14 (B) to ensure that when any such material is
15 transported internationally, it is under the most
16 effective means for adequately protecting it from
17 acts or attempted acts of sabotage or theft by
18 terrorist groups or nations; and

19 (4) to seek agreement in the United Nations Security
20 Council to establish--

21 (A) an effective regime of international
22 sanctions against any nation or subnational group
23 which conducts or sponsors acts of international
24 nuclear terrorism, and

25 (B) measures for coordinating responses to all

4151CONF

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1 acts of international nuclear terrorism, including
2 measures for the recovery of stolen nuclear material
3 and the clean-up of nuclear releases.

4 (b) REPORTS TO THE CONGRESS.--The President shall report
5 to the Congress annually, in the reports required by section
6 601 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C.
7 3281), on the progress made during the preceding year in
8 achieving the objectives described in this section.

9 SEC. 602. AUTHORITY TO SUSPEND NUCLEAR COOPERATION WITH
10 NATIONS WHICH HAVE NOT RATIFIED THE CONVENTION
11 ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL.

12 Chapter 11 of the Atomic Energy Act of 1954 is amended by
13 adding at the end thereof the following new section:

14 "SEC. 132. AUTHORITY TO SUSPEND NUCLEAR COOPERATION WITH
15 NATIONS WHICH HAVE NOT RATIFIED THE CONVENTION ON THE
16 PHYSICAL SECURITY OF NUCLEAR MATERIAL.--

17 "The President may suspend nuclear cooperation under
18 this Act with any nation or group of nations which has not
19 ratified the Convention on the Physical Security of Nuclear
20 Material."

21 SEC. 603. CONSULTATION WITH THE DEPARTMENT OF DEFENSE
22 CONCERNING CERTAIN NUCLEAR EXPORTS AND

23 SUBSEQUENT ARRANGEMENTS.

24 Chapter 11 of the Atomic Energy Act of 1954, as amended
25 by section 602 of this Act, is further amended by adding at

4151CONFE

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1 the end thereof the following new section:

2 "SEC. 133. CONSULTATION WITH THE DEPARTMENT OF DEFENSE
3 CONCERNING CERTAIN EXPORTS AND SUBSEQUENT ARRANGEMENTS.--

4 "a. In addition to other applicable requirements--

5 "(1) a license may be issued by the Nuclear
6 Regulatory Commission under this Act for the export of
7 special nuclear material described in subsection b.; and

8 "(2) approval may be granted by the Secretary of
9 Energy under section 131 of this Act for the transfer of

10 special nuclear material described in subsection b.;
11 only after the Secretary of Defense has been consulted on
12 whether the physical protection of that material during the
13 export or transfer will be adequate to deter theft, sabotage,
14 and other acts of international terrorism which would result
15 in the diversion of that material. If, in the view of the
16 Secretary of Defense based on all available intelligence
17 information, the export or transfer might be subject to a
18 genuine terrorist threat, the Secretary shall provide to the
19 Nuclear Regulatory Commission or the Secretary of Energy, as
20 appropriate, his written assessment of the risk and a
21 description of the actions the Secretary of Defense considers
22 necessary to upgrade physical protection measures.

23 "b. Subsection a. applies to the export or transfer of
24 more than 2 kilograms of plutonium or more than 20 kilograms
25 of uranium enriched to more than 20 percent in the isotope

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1 233 or the isotope 235. . .

2 SEC. 604. REVIEW OF PHYSICAL SECURITY STANDARDS.

3 (a) REVIEWS.--The Secretary of Energy, the Secretary of
4 Defense, the Secretary of State, the Director of the Arms
5 Control and Disarmament Agency, and the Nuclear Regulatory
6 Commission shall each review the adequacy of the physical
7 security standards currently applicable with respect to the
8 shipment and storage (outside the United States) of
9 plutonium, and uranium enriched to more than 20 percent in
10 the isotope 233 or the isotope 235, which is subject to
11 United States prior consent rights, with special attention to
12 protection against risks of seizure or other terrorist acts.

13 (b) REPORTS.--Not later than 6 months after the date of
14 enactment of this Act, the Secretary of Energy, the Secretary
15 of Defense, the Secretary of State, the Director of the Arms
16 Control and Disarmament Agency, and the Nuclear Regulatory
17 Commission shall each submit a written report to the
18 Committee on Foreign Affairs of the House of Representatives
19 and the Committee on Foreign Relations of the Senate setting
20 forth the results of the review conducted pursuant to this
21 section, together with appropriate recommendations.

22 SEC. 605. INTERNATIONAL REVIEW OF THE NUCLEAR TERRORISM

23 PROBLEM.

24 The Congress strongly urges the President to seek a
25 comprehensive review of the problem of nuclear terrorism by

The Senate amendment contains no comparable provision.

The conference substitute (section 509) amends the Arms Export Control Act by prohibiting exports of any item on the Munitions Control List to any country which has been designated as a supporter of international terrorism as defined by section 6(j) of the EAA. The President may waive the prohibition if he certifies to Congress that the export is important to the national interests of the United States. The conference substitute retains the present statutory language of the EAA but changes the Congressional notification requirement of export licenses approved for countries designated as supporters of international terrorism in section 6(j) of the act from exports valued at more than \$7 million to more than \$1 million.

TITLE VI - INTERNATIONAL NUCLEAR TERRORISM

Actions to Combat International Nuclear Terrorism

The House bill (section 601) directs the President to seek universal adherence to the Convention on the Physical Protection of Nuclear Materials, and to conduct a review, with the participation of all relevant U.S. Government agencies, as to whether the International Atomic Energy Agency (IAEA) recommendations on protection of nuclear materials are adequate to deter theft, sabotage, and the use of nuclear facilities and materials in acts of international terrorism. It also directs the President to take steps to minimize the amount of weapons-grade nuclear material in international transit and to insure that when any such material is transported internationally it is protected effectively, and to seek agreement in the U.N. Security Council to

establish an effective regime of international sanctions against any nation or subnational group which conducts or sponsors acts of international terrorism. In addition the President is required to report to the Congress annually on the progress made in the preceding year in achieving these objectives.

The Senate amendment contains no comparable provision.

The conference substitute (section 601) is similar to the House bill with several modifications. The substitute clarifies the steps which the President should take regarding the transfer of nuclear materials.

The committee of conference recognizes that close cooperation and commonality of purpose among the Allies is necessary to ensure successful cooperation on the steps the President is directed to take pursuant to this section. Nonetheless, the executive branch should understand that it is the purpose of the Congress in enacting this section to charge the United States to take the lead in identifying the necessary steps and forging effective agreements.

The committee of conference does not intend to prescribe a single method or standard of physical protection, and recognizes that differing combinations of measures may similarly afford effective means of adequately protecting nuclear material from terrorist diversion or sabotage. The committee of conference understands that the method of transport chosen, the constitution of the nuclear material, and legal requirements, among other variables, affect judgments on the most effective means of adequately protecting nuclear material; those judgments will therefore differ from case to case.

Further, the committee of conference believes that joint efforts under agreements for nuclear cooperation with other nations represent the best means to achieve nonproliferation goals and to continue the use of nuclear energy for

peaceful purposes.

Authority to Suspend Nuclear Cooperation with Nations Which Have Not Ratified the Convention on the Physical Protection of Nuclear Material

The House bill (section 602) authorizes the President to suspend nuclear cooperation with any nation or group of nations which has not ratified the Convention on the Physical Protection of Nuclear Material.

The Senate amendment contains no comparable provision.

The conference substitute (section 602) is identical to the House bill. This provision demonstrates the committee of conference's strong support for the Convention, and it is the intention of the committee of conference that nuclear cooperation be conducted subject to effective physical protection standards.

Consultation with the Department of Defense Concerning Certain Nuclear Exports and Subsequent Arrangements

The House bill (section 603) expresses congressional intent that the perspective of the Department of Defense on the physical protection of nuclear material should be fully incorporated into the interagency executive branch review process of nuclear export cases and subsequent arrangements.

The Senate amendment contains no comparable provision.

The conference substitute (section 603) is similar to the House bill but clarifies that the Secretary of Defense should rely on all available intelligence information as provided by the Director of Central Intelligence.

The committee of conference intends that the Secretary of Defense, through the regular consultation process with the Nuclear Regulatory Commission and the Secretary of Energy, concerning the view of the Secretary of Defense should make his assessment regarding a terrorist threat to the export or transfer of nuclear weapons-grade material and the adequacy of the physical protection of that material according to all available intelligence information and the coordinated threat assessment as provided by the Director of Central Intelligence.

Review of Physical Security Standards

The House bill (section 604) requires 5 Government agencies to review the adequacy of physical protection measures applied to shipments and storage (outside the United States) of nuclear material subject to U.S. prior consent rights. It also requires a report from each agency to Congress on their review within 6 months of the date of enactment of this act.

The Senate amendment contains no comparable provision.

The conference substitute (section 604) is similar to the House bill with an amendment reordering the listing of the Government agencies.

The committee of conference intends that these reports be submitted to the Congress as individual departmental reports and not be consolidated. Further, each department or agency in providing its final report to the Congress pursuant to this section, should provide its unique perspective, analysis, and recommendations regarding the adequacy of the actual physical security conditions and requirements. This provision does not require onsite visits to inspect such material.

International Review of the Nuclear Terrorism Problem

The House bill (section 605) directs the President to seek a comprehensive review of the problem of nuclear terrorism by an international conference.

The Senate bill contains no comparable provision.

The conference substitute (section 605) is similar to the House bill but replaces the word "directs" with "strongly urges".

Criminal History Record Checks

The Senate amendment (section 703) contains a provision requiring fingerprinting and criminal history record checks for certain employees of nuclear power plants.

The House bill contains no comparable provision.

The conference substitute (section 606) is similar to the Senate amendment with some modifications. The substitute, which incorporates the substance of S. 274, passed by the Senate on October 3, 1985, adds a new section to the Atomic Energy Act of 1954 which is intended to establish a uniform procedure for criminal history checks, applicable to all commercial licensees, regardless of ownership.

The committee of conference agrees that the Nuclear Regulatory Commission (NRC) will serve as the channeling agency, in order to collect fingerprint cards from licensees and applicants, forward them to the Federal Bureau of Investigation for identification and a criminal history record check, and distribute the results to the licensees and applicants. The NRC will not

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SUSPENSE _____ Date _____

Remarks

To 13; If any further problems arise,
please flag.

Executive Secretary
11 June 86

Date

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Executive Registry

86-2239x/2

JUN 8 1986

MEMORANDUM FOR: Joe Wright
FROM: Phil DuSault *P DuS*
SUBJECT: Director Casey's June 3rd Phone Call
Regarding CIA/State Authorities

Director Casey's June 3 call to you relates to section 106(b) of the Diplomatic Security and Anti-Terrorism Act of 1986, H.R. 4151. This bill authorizes appropriations for, and sets forth authorities and responsibilities for, implementation of the diplomatic security program (Inman package). H.R. 4151 has passed the House and awaits floor action in the Senate.

Titles I-IV of H.R. 4151 contain provisions that would allow the Secretary of State to set personnel ceilings abroad for all agencies, including CIA, and to operate security functions at all U.S. missions abroad, including CIA stations. Director Casey and OMB were concerned that these could generate conflicts between State and CIA.

Section 106(b) assures that nothing contained in Titles I-IV will limit Director Casey's authority with respect to intelligence activities, and is included in both the House and Senate versions, albeit in slightly different forms. The House-passed version, which the CIA supports, states directly that nothing in the first four titles of the bill limits Director Casey's authority, whereas the Senate Committee version states that the President shall prescribe regulations to assure that the implementation of Titles I-IV does not limit Director Casey's authority.

The OMB position, which CIA misunderstood, is that the House provision is not objectionable, but the Executive Branch cannot send a floor position to Majority Leader Dole favoring the House provision and implying that regulations prescribed by the President are unacceptable. Since your talk with Director Casey, an agreement has been arranged among OMB, CIA, and the Senate Foreign Relations Committee (SFRC) in which we will not refer to section 106(b) in the Administration's Senate floor position, but the SFRC will offer a technical amendment during Senate floor consideration acceding to the House position. This agreement, when carried out, will take care of Director Casey's concerns.

DCI
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0-108-1r

*to: Bill Casey
B.H. - This should
take care of it
if not, let me
know.
Joe W.*

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D. C. 20503

OFFICIAL BUSINESS

Honorable William J. Casey
Director
Central Intelligence Agency
Washington, D.C. 20505

11 JUN 1986

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Carl

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E.K.

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Please consult section 10 of OMB Circular A-19, pages 12-14, for instructions regarding the preparation of enrolled bill letters and the procedures to be followed on enrolled bills.

Within **TWO DAYS** (including holidays but excluding Sundays) after receipt of this request, your reply (original and one copy) should be delivered **VIA SPECIAL MESSENGER** to Mrs. Julia Yuille, Room 7201, New Executive Office Building.

Your cooperation in meeting this deadline is needed to provide maximum time for Presidential action on the enrolled bill(s).

James M. Frey
Assistant Director for
Legislative Reference

ATTENTION:
CIA

STAT



0-108-IR

Central Intelligence Agency



Washington D C 20505

19 AUG 1986

OCA 86-2829

The Honorable James C. Miller III
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Miller:

This is in response to your request for the views of the Director of Central Intelligence on enrolled bill H.R. 4151, the "Omnibus Diplomatic Security and Antiterrorism Act of 1986."

As you know, the Agency participated extensively in the preparation of the Administration's initial legislative package on diplomatic security. Since the transmission of that package to the Congress, we have followed this legislation closely.

As you may recall, early Congressional versions of the legislation raised concerns that national security considerations would be ignored in the establishment of overseas staffing levels and in other areas. Additionally, we had concerns about several of the anti-terrorism provisions as added to those early versions.

Fortunately, when we raised our concerns with the Congress and within the Administration, we received a sympathetic response, especially from the Senate Foreign Relations Committee and the House Foreign Affairs Committee. As a result, Title I of the enrolled bill reflects modifications made to take these national concerns into account. Additionally, other titles of the bill contain modifications made to address Agency concerns (principally those in the anti-terrorism area).

I am therefore pleased to recommend Presidential approval of this important legislation.

Sincerely,

[Redacted Signature]

William J. Casey
Director of Central Intelligence



0-108-JR

OCA 86-2829

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STAT OCA/Legislation, [redacted] CBT (19 Aug 86)

18 July 1986
OCA 86-2549

NOTE FOR: The Director
FROM: Dave Gries */s/*
SUBJECT: Diplomatic Security

It is now time for you to call Senator Lugar.

There are two potential problems:

--The first concerns Section 106. The Senate at staff level has receded to House language that we support as follows: "Nothing contained in Titles I through IV shall be construed to limit or impair the authority or responsibility of any other Federal, state or local agency with respect to law enforcement, domestic security operations or intelligence activities as defined in Executive Order 12333." Please tell the Senator that we are happy with this recision, which protects our authorities, and that we hope he will make certain that the recision sticks.

--The other problem concerns overseas staffing. House and Senate bills direct State "to establish appropriate staffing levels." The House at staff level has prepared with our help Report Managers Language as follows: "The Managers expect that prior to making any increases or reductions the Secretary shall coordinate with the heads of the affected agencies. In addition the Secretary shall take into consideration . . . any long-standing and unique agreements on overseas staffing levels." The main purpose of your call to Senator Lugar is to obtain his support for this managers language. You can tell him that we have given Graeme Bannerman, his staff director, a copy of the language.

You might also say that you look forward to hosting the Senator at breakfast on Wednesday, 23 July.

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